

## REMARKS

The present amendment is submitted in response to the Office Action dated September 15, 2008, which set a three-month period for response, making this amendment due by December 15, 2008.

Claims 1-4 and 7-8 are pending in this application.

In the Office Action, the abstract was objected to for an informality. Claims 1-8 were rejected under 35 U.S.C. 112, second paragraph, for being indefinite. Claims 1-8 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7,243,532 to Tsujimura et al.

In the present amendment, the abstract was amended to address the objection. In addition, the specification was amended to add standard headings and to delete reference to the claims.

The claims were amended to address the rejection under Section 112, second paragraph.

Method claim 1 was amended to adopt standard method claim format and to more clearly define the present invention over the cited patent to Tsujimura et al by adding features of original claims 5 and 6, which were canceled. Apparatus claim 7 was amended similarly.

Amended claim 1 now includes the step of monitoring by a misfire detection a cylinder of the internal combustion engine for misfiring, as disclosed on page 1, line 27, of the specification. In addition, claim 1 was amended to replace the term "at least two malfunctions" with the phrase "at least one of a mechanical malfunction and an electrical malfunction", as disclosed on page 7,

lines 3-4 of the specification. Furthermore, claim 1 was amended to replace the phrase "and a response is implemented" with the phrase "implementing as a response one of a check for electrical faults of an output stage and a limp-home mode", as originally recited in claims 5 and 6.

Contrary to the Examiner's opinion, the phrase "fuel pressure" is used in claims 3 and 4 as disclosed on page 2, line 25 and on page 3, line 2 of the specification.

The cited reference to Tsujimura et al discloses a method for monitoring an injection device for an internal combustion engine in which a fuel injection quantity and a cylinder air fuel ratio are monitored to determine whether a normal combustion or misfiring occurs. If a misfiring is detected, it is determined whether a fuel system or an air system caused the misfire.

In contrast, as defined in amended claim 1, an injection device for an internal combustion engine is monitored, in which a misfire detection monitors a cylinder of the internal combustion engine for misfiring and signals of the misfire detection are used to detect one of a mechanical malfunction and an electrical malfunction of the injection device. Tsujimura neither discloses nor suggests that signals of the misfire detection can be used to distinguish between a mechanical malfunction and an electrical malfunction of the injection device itself.

Therefore, claim 1 as amended is not anticipated by this reference. Tsujimura et al cannot be an appropriate reference either under, MPEP section 2131, which indicates that to anticipate a claim a reference must teach every element of the claim in as complete detail as is contained in Applicant's claim, or

under MPEP section 2143.03, since not all of Applicant's claim limitations are taught or suggested. A prior art reference anticipates a claim only if the reference discloses every limitation of the claim. Absence from the reference of any claimed element negates anticipation. **Row v. Dror**, 42 USPQ 2d 1550, 1553 (Fed. Cir. 1997).

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



Michael J. Striker  
Attorney for Applicant(s)  
Reg. No. 27233  
103 East Neck Road  
Huntington, New York 11743  
631-549-4700